

Jacques Syl Knitwear, Inc.; Biquette, Inc. and Local 162, International Ladies' Garment Workers' Union, AFL-CIO. Cases 22-CA-8588, 22-CA-8655, 22-CA-8698, 22-CA-8713, and 22-CA-8897

January 31, 1983

SUPPLEMENTAL DECISION AND ORDER

BY CHAIRMAN MILLER AND MEMBERS
JENKINS AND HUNTER

On February 29, 1980, the National Labor Relations Board issued a Decision and Order¹ in the above-entitled proceeding in which the Board, *inter alia*, ordered the Respondent to make whole certain employees for any loss of pay suffered by reason of the Respondent's discrimination against them. On September 21, 1981, the United States Court of Appeals for the Third Circuit entered its judgment enforcing the Board's Order. A controversy having arisen over the amount of backpay due under the Board's Order, as enforced by the court, the Regional Director for Region 22, on October 18, 1982, issued a backpay specification and notice of hearing, alleging the amounts of backpay due the discriminatees under the Board's Order and notifying the Respondent that it should file a timely answer complying with the Board's Rules and Regulations. The Respondent failed to file such an answer.

Thereafter, on December 13, 1982, counsel for the General Counsel filed directly with the Board a Motion for Summary Judgment, with exhibits attached. Subsequently, on December 20, 1982, the Board issued an order transferring the proceeding to the Board and a Notice To Show Cause why the General Counsel's motion should not be granted. The Respondent failed to file a response to the Notice To Show Cause.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Summary Judgment

Section 102.54 of the Board's Rules and Regulations, Series 8, as amended, provides in pertinent part, as follows:

(a) . . . The respondent shall, within 15 days from the service of the specification, if any, file an answer thereto

* * * * *

(c) . . . If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without notice to the respondent, find the specification to be true and enter such order as may be appropriate. . . .

The backpay specification, issued and served on the Respondent on or about October 18, 1982, specifically states that the Respondent shall, within 15 days from the date of the specification, file with the Regional Director for Region 22 an answer to the specification and that, if the answer fails to deny the allegations of the specification in the manner required under the Board's Rules and Regulations and the failure to do so is not adequately explained, such allegations shall be deemed to be admitted to be true and the Respondent shall be precluded from introducing any evidence controverting them. As the Respondent has not filed an answer to the specification, has not offered any explanation for its failure to do so, and has also failed to file a response to the Notice To Show Cause, the allegations of the specification and of the Motion for Summary Judgment stand uncontroverted. Therefore, in accordance with the rules set forth above, the allegations of the specification are deemed to be admitted as true and are so found by the Board without the taking of evidence in support of said allegations.

Accordingly, the Board concludes that the net backpay due the discriminatees, Candida Aquilero, Marta Amador, Cleofe Astralaga, Rosa Bacallao, Estella Ballesteros, Carmen Barcenas, Lourdes Becerril, Rosa Bonilla, Alicia Campoverde, Graciella Cepeda, Madeline Collazo, Maria Colon, Eumelia Cruz, Aleida Diaz, Candelaria Fernandez, Piedad Gallo, Amanda Gonzalez, Trinidad Guillermo, Edelmira Hernandez, Rosa Martinez, Antonia Mezick, Aida Molina, Marina Penton, Gilda Pereira, Odina Pineiro, Mary Porta, Maria Ramirez, Miriam Reyes, Gloria Rico, Migdalia Sanchez, Pasqualina Santillo, Susan Torres, Luisa Valle, Gloria Vargas, Nelsy Vasquez, and Beatriz Villalobos, is as stated in the computations of the specification,

¹ 247 NLRB 1525.

and orders the payment thereof by the Respondent to the discriminatees.²

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Jacques Syl Knitwear, Inc.; Biquette, Inc., West New York, New Jersey, its officers, agents, successors, and assigns, shall make whole the discriminatees named below, by payment to them of the amounts following their names, plus interest thereon to be computed in the manner prescribed in *Florida Steel Corporation*, 231 NLRB 651 (1977),³ until payment of all backpay due is made, less tax withholdings required by Federal and state laws:

Candida Aquilero	\$3,257.30
Marta Amador	1,951.71
Cleofe Astralaga	⁴ 134.00

² In its original Decision and Order in this proceeding, the Board applying *Abilities and Goodwill, Inc.*, 241 NLRB 27 (1979), ordered backpay for certain discharged strikers from the date of their discharge. Chairman Miller and Member Hunter, in finding the Respondent liable for backpay for the discharged strikers in the amounts set forth in the backpay specification, note that they did not participate in the Board's original Decision and Order and they join in this Supplemental Decision solely for institutional reasons. Accordingly, they find it unnecessary to pass on the Board's holding in *Abilities and Goodwill*.

³ See, generally, *Isis Plumbing & Heating Co.*, 138 NLRB 716 (1962).

⁴ In Appendix F (total net backpay) attached to the General Counsel's Motion for Summary Judgment, the net backpay due discriminatee Astralaga is erroneously listed as \$106.80. It is clear based on the General Counsel's Appendix E-1 (vacation pay) that the net backpay due Astralaga is \$134.

Rosa Bacallao	4,294.17
Estella Ballesteros	19,631.84
Carmen Barcenas	143.00
Lourdes Becerril	7,729.26
Rosa Bonilla	5,471.06
Alicia Campoverde	140.00
Graciella Cepeda	9,337.00
Madeline Collazo	2,983.95
Maria Colon	17,972.22
Eumelia Cruz	1,840.18
Aleida Diaz	11,473.78
Candelaria Fernandez	11,078.14
Piedad Gallo	2,940.36
Amanda Gonzalez	2,808.71
Trinidad Guillermo	15,729.21
Edelmira Hernandez	9,580.12
Rosa Martinez	6,852.42
Antonia Mezick	21,421.70
Marina Penton	7,106.27
Aida Molina	6,419.63
Gilda Pereira	130.00
Odina Pineiro	15,892.95
Mary Porta	4,645.73
Maria Ramirez	19,524.02
Miriam Reyes	17,718.04
Gloria Rico	15,747.06
Migdalia Sanchez	3,442.65
Pasqualina Santillo	16,425.22
Susan Torres	440.42
Luisa Valle	4,048.32
Gloria Vargas	10,721.88
Nelsy Vasquez	10,760.10
Beatriz Villalobos	0.00